

DAY ONE | JUNE 15, 2016

- 8:00 Registration Opens and Breakfast is Served
- 9:00 Welcoming Remarks from The Canadian Institute
- 9:05 Opening Remarks from the Co-Chairs



Ken Kelertas
Director, Legal Services and Counsel
Halton Regional Police Service



Gary V. Melanson
Solicitor, Director of Legal Services and Risk Management
Waterloo Region Police Service

THE FUTURE OF POLICING

9:15 Rethinking the Future of Policing



Mike Federico
Deputy Chief
Toronto Police Service

- Reconciling the growing costs of policing
- Innovative strategies to deliver effective policing at a lower cost
- Alternative policing models
- How to balance public interest with cost effective solutions
- Addressing financial constraints created by boards
- Redefining "essential services" and a comprehensive review of programming

10:00 Proposed Changes to Ontario's *Police Services Act*

Jason Fraser
Counsel, Legal Services
York Regional Police Service

- What is the process the Province of Ontario is following to consult with the public?
- What will these changes mean to the future of policing — predictions for moving forward
- Potential changes:
 - Suspension with pay provisions
 - s. 47: police and police civilian employee accommodations due to mental or physical disability
 - Retirement provisions

10:45 Networking Refreshment Break

11:00 Evidence Based Policing



Cameron Field
Detective Sergeant
Toronto Police Service
Deputy Director
Canadian Society of Evidence Based Policing



Dr. Laura Huey
Associate Professor, Department of Sociology
Western University
Director
Canadian Society of Evidence Based Policing

- Discussing the value of evidence-based practice in policing
- Information on research tools and resources
- The role of the Canadian Society of Evidence Based Policing in promoting evidence-based practice across all policing bodies

MENTAL HEALTH OF POLICE SERVICES

11:45 Profiling the OPP's Commitment to a Healthy Workforce



Michelle McRae
Team Lead, Wellness Unit
Ontario Provincial Police

An overview of the strategies and initiatives the OPP employs to support its members, retirees, and their families in dealing with mental health issues.

12:30 Networking Luncheon

1:30 Labour Relations Considerations in Managing the Mental Health of Your Service



Michael A. Hines
Partner
Hicks Morley

- Requiring officers to take part in mental health check ins
- Are there employer liabilities if mental health is not properly addressed?
- How do mental health issues play out in the disciplinary context?
- What should employers do if they suspect a mental health issue?
- Raising mental health as a causal or mitigating factor in discipline cases
- Proposed presumptive legislation on PTSD suggested by Ontario Ministry of Labour: what could this mean going forward?

2:15 Emotional Intelligence for Police



Catherine Nanton
Coordinator – Public Safety Leadership
School of Public Safety, Fanshawe College, London Ontario

- What is emotional intelligence?
- Why is emotional intelligence important for police?
- Emotional intelligence and wellness
- Effectively managing stress and other emotions
- Examining your emotional competencies

3:00 Keynote Address: The Canadian Armed Forces Response to Harmful and Inappropriate Sexual Behaviour



Rear-Admiral Jennifer Bennett, CMM, CD
Director General
Canadian Armed Forces Strategic Response Team
on Sexual Misconduct

3:45 Networking Refreshment Break

ROUNDTABLE DISCUSSION

4:00 Ontario Proposed Street Check Regulation

Moderator:



Gary V. Melanson
Solicitor, Director of Legal Services and Risk Management
Waterloo Region Police Service



Mike McCormack
President
Toronto Police Association



Renu Mandhane
Chief Commissioner
Ontario Human Rights Commission

Senior Representative
Canadian Civil Liberties Association

In June 2015, the Government of Ontario announced that it would be developing a new regulation to govern police interactions with members of the public, including street checks, to ensure a consistent and bias-free approach throughout the province. The government held a series of public meetings and conferred with more than 40 organizations involved in human rights, civil liberties, law, and youth services. This process revealed that the community at large finds that street checks are arbitrary and discriminatory and must therefore be ended rather than regulated. The pending regulation is intended to require that police interactions with the public are justified, rights-based, and consistent with the Charter and the Ontario Human Rights Code. This roundtable discussion will present various perspectives on street checks, and will make predictions for going forward.

- What are street checks?
- Perspectives on street checks:
 - Human rights and civil rights implications of carding and street checks
 - Operational perspectives on street checks
- What are the implications of a street check regulation going to be?

5:15 Closing Remarks from Co-Chairs

5:20 Day One Adjourns

DAY TWO | JUNE 16, 2016

8:30 Breakfast is Served

9:00 Opening Remarks from the Co-Chairs

9:15 Recent Privacy Issues in Policing



R.K. Friesen
Counsel
RCMP Legal Advisory Section
Department of Justice Canada



Ken Kelertas
Director, Legal Services and Counsel
Halton Regional Police Service

- Class action lawsuits for privacy breaches
- Damages for privacy breaches in civil litigation and arbitration
- Vicarious liability for CPIC
- DNA sweeps
- Cybersecurity and privacy
- Privacy laws and Court decisions: annual survey

10:15 Representing Police Services Boards



Stuart Zacharias
Partner
Lerners LLP

- Potential liability of Police Services Boards for failure to discipline/terminate officers?
- To what extent can Police Services Boards be held vicariously liable for punitive damages stemming out of litigation involving police officers?
- How does the analysis differ in a claim for malicious prosecution against the police as opposed to the Crown?

11:00 Networking Refreshment Break

11:15 Civil Liability of Police Services — An Overview of Recent Developments



Kevin McGivney
Partner
BLG LLP

- Annual survey of decisions, including caselaw on:
 - Malicious prosecution
 - Damages for wrongful convictions
 - "Mr. Big" Investigations

12:00 Professional Standards Investigations and Police Discipline



Brian Gover
Stockwoods LLP

- Parallel criminal investigations and Part V *Police Act* investigations
 - Charges arising from the same set of circumstances
 - Minor infractions versus major infractions
 - What is considered discreditable conduct
- Commentary on the Forcillo decision
- What happens in a discipline case involving confidential informants
 - What access can professional standards investigators/the OIPRD obtain to documents relating to confidential informant misconduct?
 - Waiver of confidential informant privilege

12:45 Networking Luncheon

1:45 Crisis Management in a Digital Age



Meghan Gray
Information & Issues Management Section Head
Corporate Communications
Toronto Police Service

- Building strong positive relationships with local and national media
 - Using traditional and social media to promote your department's mission, ongoing operations, and special initiatives
 - Communicating public safety information
- Effective crisis communications following critical incidents
 - Creating media policies for your police service
 - Crafting effective press releases, providing media interviews, and conducting press conferences
 - Proactively harnessing the power of social media
 - Managing your version of events: combatting the "Hollywood effect" and public perception of police
- Legal issues stemming from communications and media relations
 - Best practices for handling FOI requests
 - Balancing privacy rights and public safety: where is the line between protecting the public and releasing information?

2:30 Effective Police Governance



Fred Kaustinen
Executive Director
Ontario Association of Police Services Boards

- Why should police be "governed?"
- What does "effective governance" look like?
- What are the success factors for Effective Police Governance?
- What needs to happen to ensure Effective Police Governance, by design?
- Is it achievable?

3:15 Closing Remarks from Co-Chairs

3:30 Conference Concludes



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The Canadian Association of Police Governance (CAPG) is a national non-profit association formed in response to a need for information exchange, education and advocacy for Canadian municipal police governing bodies. The CAPG works collaboratively and proactively with members and partners to enhance civilian governance of policing in Canada. www.capg.ca



Ontario Association of Police Services Boards (OAPSB) is the not-for-profit organization comprised of local police services boards. We serve our members and stakeholders by providing board training and networking opportunities, advocating for improvements in public safety legislation and funding, and coordinated collective bargaining among police employers. Currently our top priority is legislative reform of police governance. www.oapsb.ca



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network of
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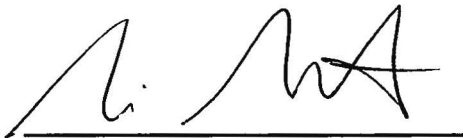
HAMILTON POLICE SERVICES BOARD - INFORMATION -

DATE: 2016 May 26
REPORT TO: Chair and Members
Hamilton Police Services Board
FROM: Eric Girt
Chief of Police
SUBJECT: *Year End Report: Professional Standards Branch - 2015*
(PSB 16-071)

BACKGROUND:

Please find attached the annual Professional Standards Branch Report for 2015. The report outlines public complaints, Service complaints and internal investigations including workplace harassment. SIU investigations and their outcomes are also reported. The report also includes areas of risk such as police involved motor vehicle collisions and officer involved pursuits.

Commendations for officers, citizen awards and letters of appreciation are also outlined in this report.



Eric Girt
Chief of Police

EG/N. Goodes-Ritchie
Attachment: *Professional Standards Branch Annual Report 2015*
cc: Kenneth Weatherill, Deputy Chief, Field Support



Hamilton Police Service Professional Standards Branch

Annual Report 2015

Professional Standards Branch

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Professional Standards Branch

Preface

This report is prepared in accordance with Ontario Regulation 3/99 of the *Police Services Act*. It is a comparative statistical analysis of all complaints received and investigated during 2015, as well as a compilation of relevant Risk Management data for the same year.

The statistical information included in the 2015 Professional Standards Branch Annual Report was compiled with data obtained from the following sources:

Statistical Sources

- Professional Standards Branch Database
- Internal Affairs Professional Standards Records Management System (IAPro)
- Chief's Office
- Legal Services
- Human Resources
- Special Investigations Unit Liaison
- 2014 Professional Standards Annual Report

Definitions

Professional Development Division (PDD)

A division of the Hamilton Police Service responsible for Professional Standards, Risk Management, Policy Development, Corporate Planning, Quality Assurance and Training. When required, the branches of the PDD work together to examine and assess organizational needs and devise action plans to further enhance work performance. In 2015, the PDD was managed by Superintendent Debbie Clark.

Professional Standards Branch (PSB)

PSB is responsible for investigating and facilitating the resolution of both internal (Chief) and external (public) complaints in an impartial and professional manner, pursuant to the *Police Services Act*. The PSB acts as the liaison for the investigation of complaints referred by the Office of Independent Police Review Director (OIPRD). Additionally, this branch of the PDD investigates human rights complaints, civilian employee complaints, labour law complaints, Bill 168 complaints (Workplace Violence and Harassment) and Special Investigations Unit (SIU) Section 11 reviews. The PSB is staffed by three Sergeants and one Staff Sergeant.

Professional Standards Branch

Risk Management

The Risk Management branch of PDD is responsible for the identification and evaluation of risks and the development, selection and implementation of control measures that change outcomes. The Risk Manager currently handles the McNeil disclosure file and weekly tips for Hamilton Police Service members on current and risk related topics. Additionally, the Risk Manager assesses Police Service Motor Vehicle Collisions (MVC), member Red Light Camera (RLC) infractions; member Missed Court (MC) attendances, and supervises policy development. The Risk Management branch is staffed by one Staff Sergeant.

Office of Independent Police Review Director (OIPRD)

The OIPRD receives, manages and oversees all public police complaints in Ontario.¹ They are a civilian oversight agency that accepts complaints about the conduct of police officers and/or the policies and services of a police department. In addition to processing and investigating public complaints, the OIPRD administers the Ontario public complaints system.

Special Investigations Unit (SIU)

The SIU is a civilian law enforcement agency that conducts investigations of incidents involving police that have resulted in death, serious injury, or allegations of sexual assault.² Although it is an agency of the Ministry of the Attorney General, its investigations and decisions are independent of the Government of Ontario. The Director of the SIU is empowered under the *Police Services Act* to lay criminal charges against police officers where warranted.

Internal Affairs Professional Standards Software (IAPro)

IAPro is a Professional Standards software used by the PDD to efficiently handle citizen complaints, administrative investigations, use-of-force reporting, and other types of incidents, while providing the means to identify and analyze areas of concern.³

Section 11 Investigations

The Chief of Police is legislated under Section 11 (s.11) of Ontario Regulation 267/10, to cause an administrative investigation to be conducted into any incident of which the SIU is notified.⁴ The investigation reviews the conduct of the involved police officer(s), as well as the policies and/or services provided by the Hamilton Police Service.

¹ Queen's Printer for Ontario, 2015, *Office of Independent Police Review Director*, www.oiprd.on.ca

² Queen's Printer for Ontario, 2015, *Special Investigations Unit*, www.siu.on.ca

³ CI Technologies, 2015, *IAPro*, www.iapro.com

⁴ *Police Service Act*, 2011, Ontario Regulation 267/10, *Conduct and Duties of Police Officers Respecting Investigations by the Special Investigations Unit*, www.e-laws.gov.on.ca

Professional Standards Branch

Executive Summary

The Professional Standards Branch and Risk Management Branch saw a productive year in 2015. Both public complaints from the OIPRD and internal investigations experienced a slight increase from 2014. However, the time spent on investigations notably increased, as they were more complex in nature.

In 2015, the Hamilton Police Service answered 367,397 telephone calls, yet only 110 public complaints were made to the OIPRD, representing less than 0.03%. Of these complaints, 61 were screened in for investigation by PSB. This included 51 conduct complaints, 1 service complaint and 9 customer service resolutions.

In 2015, the HPS answered 367,397 phone calls.

The HPS received only 110 public complaints, this represents less than 0.03% of all calls.

In 2015, there was only 1 allegation of workplace harassment when compared to 7 incidents in 2014.

Discreditable Conduct was the most common allegation of misconduct at 24 counts, and Excessive Force was the second most common at 15. It should be noted that the OIPRD does not screen out any Excessive Force complaints. There were no allegations of the more egregious complaint types. Of the 51 conduct investigations, only 4 cases (8%) resulted in a finding of misconduct. The 1 service complaint filed against the HPS was substantiated. An OIPRD review was requested 1 time by a complainant in 2015. This review remains before the OIPRD. In 2014, 3 OIPRD reviews were requested and in each case the HPS decision was upheld.

A total of 229 internal complaints were filed in 2015, representing an increase of 35% from last year. Specifically, Red Light Camera (RLC), Motor Vehicle Collisions (MVC) and Missed Court (MC) saw a 42% increase from 2014. Of the total internal complaints came 266 specific allegations of misconduct. Damage to Clothing/Equipment was the most frequent form of misconduct. Notably, it includes all major and minor police service collisions, and in some instances, multiple allegations per complaint. Of note, there was only 1 complaint and/or allegation of workplace harassment when compared to 2014, which saw 7 allegations of Harassment. This can be likely attributed to the HPS' ongoing education and training as it pertains to workplace harassment. Excluding MC, MVC, and RLC violations, 64% of the remaining 50 chief's complaints resulted in substantiated misconduct.

The SIU invoked its mandate to investigate 14 reported incidents in 2015. Of the 14 investigations, 5 were concluded by memo after a preliminary inquiry and 9 became formal investigations. Out of the 9 investigations, 5 were concluded. 4 of these were concluded with no reasonable grounds to believe that the subject officers committed a criminal offence. 1 investigation concluded with criminal charges laid against the subject officer. This matter remains before the courts. The remaining 4 investigations are pending the SIU Director's decision. The subsequent provincially mandated Section 11 investigations completed by the PSB determined that all HPS policy and procedures were adhered to and no further action was required.

Professional Standards Branch

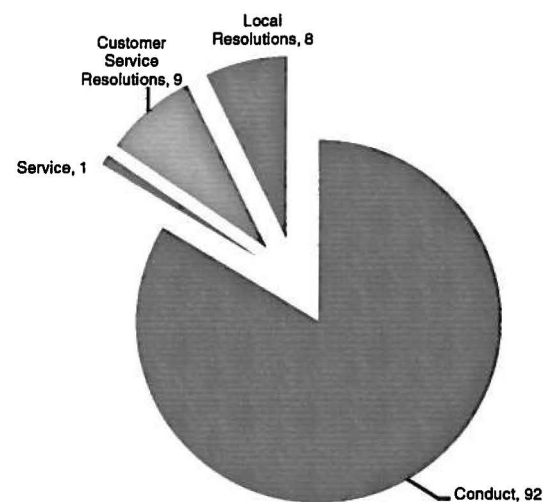
A total of 56 Fail to Stop reports were submitted for 2015. This is a decrease of 11 reports or 31% from the previous year and can be likely attributed to appropriate active supervision techniques and member training. Pursuits were initiated in 35 (63%) of the incidents where a Fail to Stop report was submitted. Officers discontinued 31 (89%) of these pursuits. Of the total Fail to Stop reports, 13 were for *Criminal Code* violations, 18 for *Highway Traffic Act* violations and 4 were for unspecified reasons. Notably in 2015, no MVC's occurred as a direct result of officer initiated pursuits compared to the 4 collisions that resulted in 2014.

The Hamilton Police Service received 180 Good News letters in 2015. The Service issued 38 letters of recognition to members of the public and a total of 166 commendations to HPS members for exemplary service. Additionally, 23 members were awarded Member of the Month, and 3 Pride awards were awarded to a total of 33 members.

Public Complaints

In 2015, the Hamilton Police Service answered 367,397 telephone calls. From this considerably high number, only 110 complaints were made to the OIPRD regarding the Hamilton Police Service, representing less than 0.03% of all calls. This is a very low number of complaints from the public given the frequency of contact and interaction had with the Service.

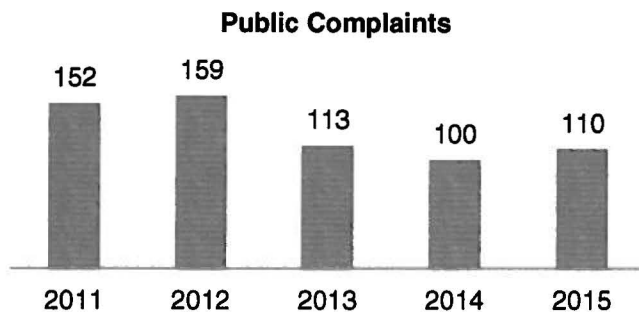
Of the 110 complaint submissions, 92 were related to officer conduct, 1 was classified as a service complaint, 9 were screened for customer service resolutions (CSR) and 8 were resolved locally (local resolution). It should be noted that a CSR is a confidential process for less serious complaints that provides an opportunity to voluntarily resolve complaints before they are formally screened under the *Police Services Act*.⁵ A local resolution is a process where complaints are made directly with the HPS and a resolution is agreed upon by the involved parties.⁶ In 2015, local resolutions increased by 100% over 2014. This can be attributed to training provided to the Staff Sergeants at Performance Leadership Training (PLT) by the Professional Standards Branch staff.



⁵ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director - Customer Service Resolutions, www.oiprd.on.ca

⁶ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director - Local Resolutions, www.oiprd.on.ca

Professional Standards Branch

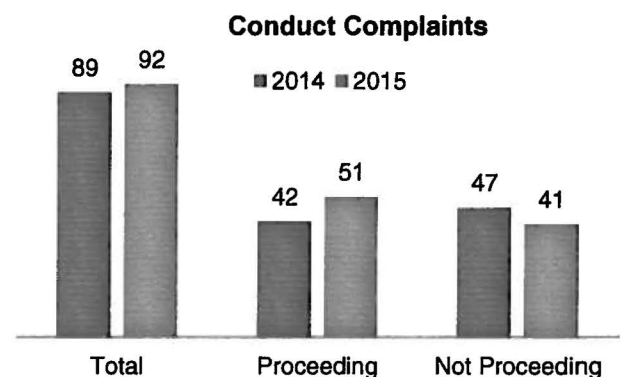


The OIPRD screened in 61 of the 110 complaints, which constitutes 55% of the original public complaints. This includes conduct complaints, customer service resolutions and service complaints. A comparison of the past five years reveals that the OIPRD is receiving fewer complaints regarding the HPS. The average number of public complaints between 2011 and 2015 was 127. In 2015, the OIPRD experienced an 11% decrease from the previous four-year average, suggesting improvement in the way the HPS is providing quality service.

Conduct Complaints

When the behaviour of a police officer is formally questioned by a member of the public, the OIPRD classifies this as a conduct complaint.⁷ Of the 92 conduct complaints, 51 were ultimately screened in by the OIPRD for investigation by PSB. The OIPRD determined that police investigation was not required for the remaining 41 submissions based on legislated criteria such as,

- the complaint is better dealt with under another law or act
- the complaint is frivolous – trivial or lacks an air of reality
- the complaint is not in the public interest
- the complaint is made over six months after the incident⁸



Comparing the 2015 conduct complaint data to that of 2014, reveals that there was a slight 4% increase in these types of complaint submissions to the OIPRD. This increase is in line with that of the overall increase in the number of public complaints. The number of complaints regarding conduct screened in was slightly higher when compared to that of 2014.

⁷ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Complaints, www.oiprd.on.ca

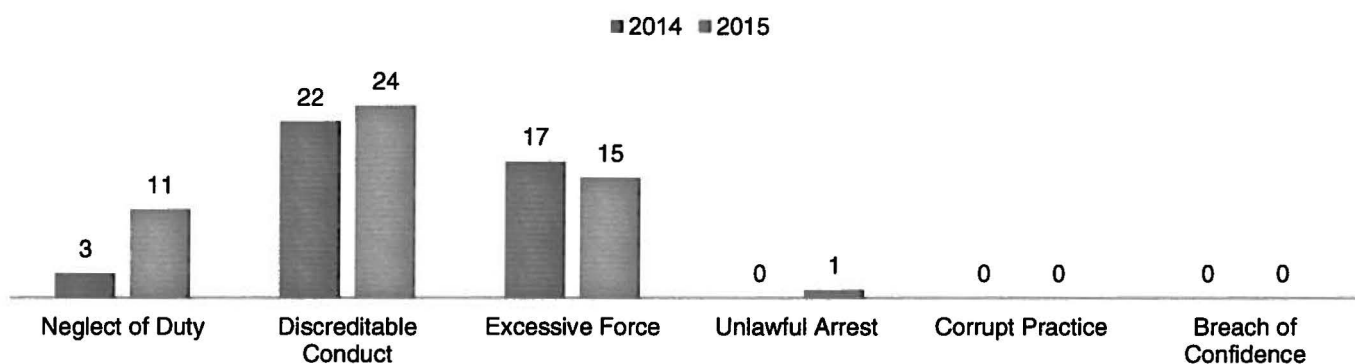
⁸ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Screening Complaints, www.oiprd.on.ca

Professional Standards Branch

Allegations of Misconduct

The *Police Services Act Code of Conduct* is used by the HPS as the basis for classifying conduct complaints. Although Discreditable Conduct allegations increased from 2014 to 2015, there were no allegations of the more egregious complaint types (Corrupt Practice and Breach of Confidence). Discreditable Conduct also represents the most common type of complaint made. The number of complaints regarding Excessive Force remained the second greatest type, but saw virtually no change from the previous year. Neglect of Duty allegations increased by 8 incidents along with 1 allegation of Unlawful Arrest.

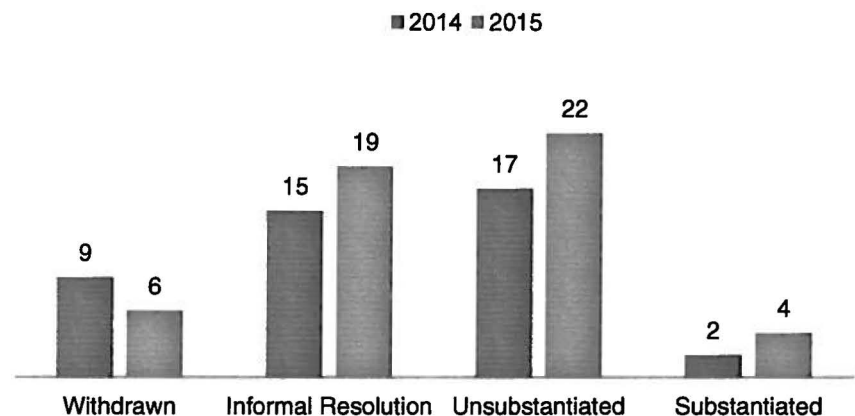
Conduct Complaints Proceeding by Allegation



Disposition of Conduct Complaints

Of the 51 officer conduct investigations, 6 complainants voluntarily withdrew their complaints based on subsequent information provided to them. At the preliminary stages 19 were resolved by informal resolution and 18 allegations of officer misconduct were unsubstantiated by investigators. Only 4 cases or 8% of the original 51 conduct complaints resulted in a finding of misconduct on behalf of the officer, with penalty implemented pursuant to the *Hamilton Police Service Discipline Policy*.

Disposition of Investigated Conduct Complaints

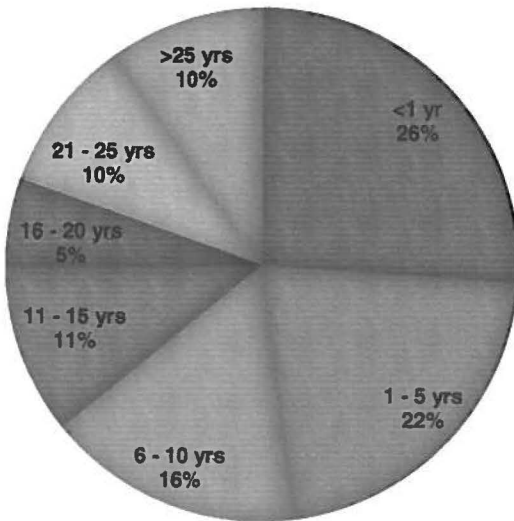


Demographics of Conduct Complaints

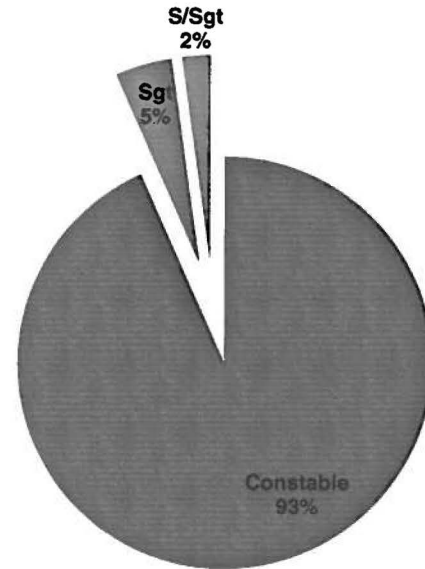
Most conduct complaints involve officers with 1-5 years of experience, as they are typically less experienced uniform police officers who have the highest frequency of contact with members of the public. When looking at the rank of a subject officer, the greatest number of public complaints is made regarding Constables. Similarly, Constables have the most interaction with the general public.

Professional Standards Branch

Years of Service of Subject Officer



Rank of Subject Officer



Service Complaints

Service complaints relate to a specific policy and/or processes of the Hamilton Police Service. In 2015, there was 1 service complaint filed against the HPS. This complaint was investigated and substantiated. The nature of the complaint pertained to the HPS video surveillance system.

Public Complaint Reviews

In the circumstance that a complainant is not satisfied with the outcome of a complaint investigation, they may request a review by the OIPRD. Complainants have 30 days from the day they are notified of the results to make this request. Once the OIPRD has received the file from the police, they will assess the investigation and determine if the decision is appropriate.⁹

In 2015, the Hamilton Police Service received 1 request from a complainant for an OIPRD review. The OIPRD is currently reviewing this matter and a decision is pending. In 2014, the Hamilton Police Service received 3 requests for review. All 3 reviews by the OIPRD upheld the HPS decisions.

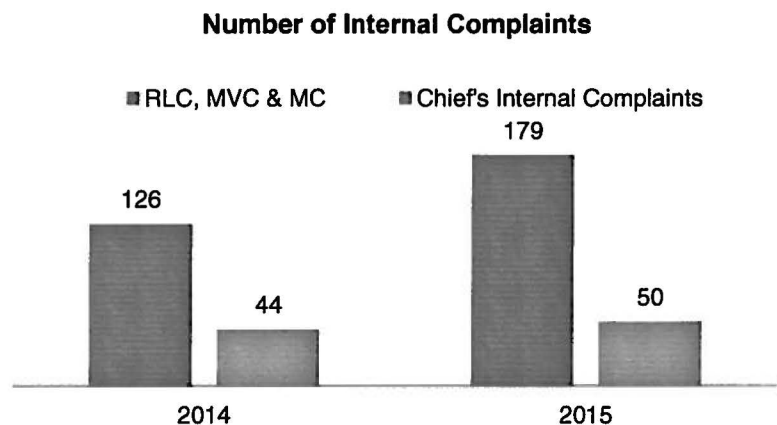
⁹ Queen's Printer for Ontario, 2015, Office of Independent Police Review Director – Request a Review, www.oiprd.on.ca

Professional Standards Branch

Internal Complaints

Pursuant to the *Police Services Act*, the Chief may cause an investigation to be conducted in relation to the conduct of a police officer employed by the Service. These internal complaints are typically initiated by a HPS member or supervisor. The findings of the investigation are provided to the Chief in a written report and where required, discipline is implemented pursuant to the *Hamilton Police Service Discipline Policy*.

With respect to these investigations, the Chief of Police has separated simple violations such as Red Light Camera violations (RLC), Motor Vehicle Collisions (MVC) and Missed Court (MC) to be investigated by divisional commanders. More complex member conduct investigations are investigated by the PSB. These are referred to as a Chief's Internal Complaint.



A total of 229 internal complaints were filed in 2015, compared to 170 complaints in 2014. This represents an increase of 35% in overall internal complaints. Specifically, RLC, MVC and MC saw a 42% increase from the previous year. Of this 42% increase, RLC's contributed to the majority of the increase as incidents increased 88% from last year. This can be partially attributed to an additional 3 red light cameras that were installed in the city in 2015. There were a total of 32 RLC incidents, 4 MC incidents, 94 MVC incidents with 55 of those deeming the officer at fault, the remaining 39 MVC's were non-preventable.

Allegations of Misconduct

The internal complaints filed in 2015 yielded 266 specific allegations of misconduct. The number of allegations compared to complaints is larger because a single complaint may include multiple HPS members and/or multiple allegations per member. Of the various classifications of alleged misconduct, Damage to Clothing/Equipment was the most frequent at 48%. This particular classification of misconduct is extremely broad, contributing to this relatively high average. It includes all police service collisions, from extremely minor to major, and in some instances includes collisions where one complaint was filed, but allegations were made against multiple members involved. Almost every type of allegation experienced an increase in 2015 from the previous year. *Criminal Code* allegations saw an increase of 2 cases.

Workplace Harassment Investigations (Bill 168)

The Hamilton Police Service believes in the respect for, value and equitable treatment of all members. Harassment or discrimination is not tolerated in the workplace and all complaints of this nature are investigated thoroughly and in a timely manner.